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In the High Court of Judicature at Madras

Dated: 09.10.2006

Coram

The Honourable Mr. JUSTICE R.BALASUBRAMANIAN
and
The Honourable Mr. JUSTICE P.P.S.JANARTHANA RAJA

Tax Case (Appeal) No.26 of 2004

Commissioner of Income Tax
Madurai. .... Appellant

Vs.

M/s. Ayyappan Textiles, Madurai .... Respondent

APPEAL under Section 260A of the Income Tax Act against the order dated 08.01.2003 made in I.T.A.No.3165/Mds/93 on the file of the Income Tax Appellate Tribunal Chennai 'C' Bench for the assessment year 1990-91 against the order of the Commissioner of Income Tax (Appeals), Madurai dated 21.10.93 ITA No. 224/93-94 against the order of the Asst. Commissioner of Income Tax, Central Circle, Madurai dated 22/3/93 in PAN/GIR 47-016-CO-3948.

For Appellant : Mrs. Pushya Sitaraman

For Respondent : No appearance

J U D G M E N T

(Judgment of the Court was delivered by
P.P.S.JANARTHANA RAJA,J)

This appeal is filed by the Revenue under Section 260A of the Income Tax Act against the order of the Income-tax Appellate Tribunal dated 08.01.2003 made in I.T.A.No.3165/Mds/93. On 27.01.2004, this Court admitted the appeal and formulated the following substantial questions of law:

> "1. Whether in the facts and circumstances of the case, the Tribunal was right in allowing a deduction of the amounts spent on replacement of machinery?
>
> 2. Whether in the facts and circumstances of the case, the Tribunal was right in holding that the assessee has adopted the proper valuation of closing stock of the cotton?"

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2. The brief facts arising out of the above tax case are as under:

The assessee is a textile mill incorporated under the Companies Act. It is engaged in the manufacture of yarn. The relevant assessment year is 1990-91 and the corresponding accounting year ended on 31.03.1990. The assessee filed Return of income on 31.12.1990 admitting a total income of Rs.69,75,576/-. The said Return was processed under Section 143(1)(a) of the Act and determined the income at Rs.86,64,870/-. Subsequently, the assessment was completed determining a total income of Rs.1,22,76,990/-While computing the assessment, the Assessing Officer disallowed the replacement of old machinery by new machinery, as capital expenditure and also was of the view that the assessee had undervalued the closing stock of cotton and hence made an addition of Rs.15,22,236/-. Aggrieved by the order, the assessee filed an appeal before the Commissioner of Income Tax (Appeals). The Commissioner of Income Tax (Appeals) deleted the addition and allowed the appeal. Aggrieved, the Revenue filed an appeal before the Income Tax Appellate Tribunal (hereinafter referred to as the "Tribunal"). The Tribunal dismissed the appeal confirming the order the Commissioner of Income Tax (Appeals).

3. Learned standing counsel appearing for the Revenue submitted that the replacement of plant and machinery is only capital expenditure and further submitted that the assessee has undervalued the cotton stock and hence the Tribunal is wrong in holding that the assessee's valuation of the closing stock of the cotton is correct. It is further submitted that the assessee has not complied with the principles of adopting lesser value among the cost or market price.

4. Inspite of notice served on the respondent, there was no representation on behalf of the respondent.

5. Heard the counsel. In respect of Question No.1, the issue stands covered in favour of the assessee by this Court judgment reported in 275 ITR 403 in the case of Commissioner of Income-tax Vs Janakiram Mills Ltd. and hence we answer the question in favour of the assessee and against the Revenue. In respect of Question No.2, the assessee has valued the lowest value of the various categories of raw cotton as on the last date of the accounting year and increased it by the freight expenses and the resultant figure was adopted as the market rate for valuing the closing stock of cotton. Both the C.I.T (A) as well as the Tribunal found that the Assessing Officer could not point out any cogent evidence to show that the market value shown by the assessee for various categories of cotton is lower than the market rate. After appreciation of the materials and evidence on record, both the authorities had given a concurrent finding that the assessee has shown the correct market value in respect of the various categories of cotton. Hence, we find no error or infirmity in the order of the Tribunal and the same does not require interference

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Under the circumstances, we answer the second question also in favour of the assessee and against the Revenue.

6. With the above observation, the tax case is disposed of. No costs.

sl/km

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. THE ASSISTANT REGISTRAR
INCOME-TAX APPELLATE TRIBUNAL
RAJAJI BHAVAN, MADRAS C BENCH
BESANT NAGAR, CHENNAI-600 090.

2. THE COMMISSIONER OF INCOME TAX(A)I,
MADURAI.

3. THE ASST. COMMISSIONR OF INCOME TAX,
CENTRAL CIRCLE, MADURAI

4. THE COMMISSIONER OF INCOME TAX
MADURAI

ONE CC TO MR.PUSHYA SITARAMAN, SENIOR STANDING COUNSEL FOR IT
(SR 47113)

T.C.(A) No.26 of 2004

TEJ(CO)

BP/3.11 09.10.2006

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